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TERMS OF REFERENCE

OBJECTIVES

WORK PROGRAM

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the ROYAL COMMISSION on the
NORTHERN ENVIRONMENT

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Royal Commission on the Northern Environment

TERMS OF REFERENCE, OBJECTIVES AND

WORK PROGRAM



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The exact responsibilities of the Commission depend on the interpretation of some of the terms used in the Order-in-Council.

"Environment": The Order-in-Council explicitly uses the same definition as does the Environmental Assessment Act. This is important, because "environment" thus includes not only air, land, water and animal and plant life, but also social, economic and cultural conditions, man and anything man-made, and any physically detectable result of human activity. This has the effect of enabling the Commission to consider virtually any kind of consequence that a "major enterprise" may have.

"People of Ontario": The reference to "the people of Ontario" draws attention to the fact that the north is part of Ontario, so that all the people of the province, not just those of the north, have an interest in what happens there; hence emphasising the Commission's responsibility to all Ontarians and not to northerners only.

"Major enterprise": The Commission takes "major enterprise" to mean any kind of economic activity with a significant effect on the environment (as defined above) of the study area or of any substantial part of it.

"Generally north of the 50th parallel": See "The Study Area."

"Alternative undertakings": The Commission takes this as meaning alternative approaches to economic development and resource management, or to other kinds of programs or projects relating to the Commission's responsibilities, such as, for example, local government and administration.

The tasks of the Commission could, therefore, be generally defined in this way:

- To examine the ways in which decisions are made about economic development and resource use in the north.
- To examine the effects of such decisions on the people and the natural environment.
- To review the adequacy of existing law and government programs in controlling these effects.
- To propose alternative approaches both to the carrying out and to the control of economic development and resource use that might bring better results for the north and the province.

However, these tasks necessarily imply a fifth, namely: to examine the goals of public policy in the north. This is essential, because to resolve the potential conflicts between, for example, industrial expansion and environmental protection necessarily implies assigning priorities and preferences which can only be set consistently when broad policy goals have been established.

OBJECTIVES

The broad scope of the Commission's terms of reference makes it necessary to define more specifically the objectives which the Commission will try to achieve. To do so, the Commissioner has relied heavily on the views expressed at the preliminary hearings held in the winter of 1977-'78, on the Issues Report that followed, and on his own introductory meetings in northern communities. In this way, five objectives have been defined. They may be revised from time to time in the light of experience or new information, but currently they are:

1. To identify, as far as possible, the economic prospects for the north in the "conventional" sectors (e.g., mining, forest industries, tourism).
2. To identify ways of strengthening and diversifying the economic base of northern communities both through the "conventional" sectors and through complementary and alternative activities.
3. To examine the likely implications of human activities for the natural environment of the north and the adequacy of current governmental programs to protect it, and to recommend necessary improvements in such programs.
4. To assist the people of the north to develop realistic social, economic and (natural) environmental goals for the north as guides to public policy.
5. To recommend necessary changes in the legislation, administrative structures and processes whereby government decisions about economic and social development and protection of the natural environment in the north are made, considering their appropriateness, effectiveness, co-ordination, clarity and responsiveness.

THE STUDY AREA

The part of Ontario with which the Commission is concerned is defined by the Order-in-Council as "north or generally north of the 50th parallel of north latitude."

A parallel of latitude is inevitably an arbitrary boundary which is not always suitable for practical purposes, and the Order-in-Council recognises this by the use of the words "or generally north." However, the 50th parallel is, in fact, a reasonably close approximation of the generalised southerly limit of the part of the province in which a combination of the following characteristics prevails:

- A predominantly native population.
- Small, scattered settlements, remote from areas of urbanisation, secondary industry or extensive agriculture.
- Costly transportation, mainly by air.
- Some known physical potential for mineral development, with prospects not yet fully explored.
- Climatic conditions which place constraints on biological productivity (timber, fish, wildlife, etc.) and hence also on tourism and outdoor recreation.
- Fragile ecosystems, easily damaged and slow to recover, but for the most part not yet seriously harmed.

Clearly, there are areas north of 50° to which some or all of these characteristics do not apply, and areas south of 50° to which they all do. But these features show that the 50th parallel is by no means entirely arbitrary, and indicate clearly the general intent of the government with regard to the Commission's geographical area of concern. It is, therefore, the part of the province marked by this combination of characteristics on which the Commission will concentrate its efforts and pursue its objectives.

It would not, however, be reasonable or practical to adhere to this interpretation so strictly as to omit from this area of "primary" concern those communities which do not share all six characteristics but which are nevertheless located well to the north of the 50th parallel and whose futures are inseparably linked to that of the region as a whole: principally, the Red Lake area; Sioux Lookout and other communities along the CN line at least as far east as Nakina; and Moosonee.

Thus, all of Ontario north of 50 is taken by the Commission as its area of primary concern, with southward extensions to correspond with the six characteristics listed above (this applies in practice mainly to the area north of Lake Abitibi, between the Ontario Northland Railway line and the Quebec border). Beyond this area of primary concern, the Commission will confine its investigations to a limited number of specific purposes, as

described below.

While the Commission's mandate will be exercised largely to the north of the 50th parallel, it cannot in all respects treat this line as the absolute limit of its interest and attention. There is a broad belt of northern Ontario, extending perhaps as far as the U.S. border in the west, and Timmins in the east, in which there are close links and affinities with "north of fifty" which cannot be ignored by the Commission. This constitutes, then, the Commission's secondary area of concern. Here, the scope of the Commission's work will be defined by and limited to the following considerations:

- * Direct relevance to conditions and issues considered by the Commission in its primary area of concern (such as experience with problems created by resource industries, or new approaches to economic development).
- * Functional or associational relationships with the primary area (such as transportation links or treaty areas).
- * Effects of local conditions or developments which extend into the primary area (such as job opportunities or pollution).

The practical outcome of this approach is that the Commission's investigations and public activities may extend well south of the "adjusted 50th parallel", but selectively and with a clear focus on a small number of specific topics.

WORK PROGRAM

To achieve its objectives the Commission uses two main approaches: public participation, and research or technical studies. The work program is designed to ensure a continuous integration of these two approaches.

Research and technical studies are carried out by Commission staff and by contractors such as educational institutions, consulting firms, qualified individuals and special-interest groups. Studies of this kind are referred to below generally as "Commission studies."

The purpose of the public participation program is to inform the public of the findings of Commission studies, and, equally importantly, to inform the Commission of the views, opinions and aspirations of the public for Ontario north of 50°. The public participation program will take many different forms, which may include surveys, public meetings, workshops, seminars and formal hearings.

Both approaches are supported by the Commission's program of public information. Through vehicles such as the Commission newsletter, staff papers, consultants' reports and progress reports, the Commission will keep the public informed of its activities and findings, while itself receiving public views and information through informal meetings and the receipt of submissions. The Commission is prepared to receive submissions from the public at any time.

The Commission's public funding program also complements both research and public participation. Funding is available to assist individuals and groups in researching, preparing and presenting submissions on topics within the Commission's mandate. It should be understood that the Commission is not a general funding agency, and can only consider funding projects which are directly relevant to its mandate. The Commission publishes a brochure explaining the details of its funding program. Projects funded in this way are distinct from "Commission studies" initiated by the Commission itself, and their conclusions and recommendations are the responsibility of the individuals or organisations receiving assistance, not of the Commission.

The Commissioner has assumed an additional responsibility relating to community concerns. A wide range of problems and concerns, many of them unrelated to the Commission's mandate, are brought before the Commissioner. While the Commission cannot deal with these problems directly or actively seek remedies, it will try to convey them to the appropriate provincial ministries or other agencies, and to inform the originators of any action taken.

OBJECTIVE 1 (Economic Prospects)

The "land and resources study" carried out for the Commission will bring together the most recent information on the character and physical potential of the natural resources north of 50° including minerals, forest resources, fish and wildlife, and recreational resources. It will also provide information on current resource use in the "conventional" sectors --mining, forestry, tourism, etc. This will provide much of the data base for a Commission study of the future prospects of these sectors. In addition to known resource potential, this study will, as far as possible, take into account all the factors which will affect the use of these resources, including the present conditions in the various sectors, and projected future industrial and market conditions.

Commission studies may also examine the possibilities of achieving stimulated growth through planned and coordinated subregional economic development; that is, by initiating several projects simultaneously in a specific area so that they will support each other, achieve servicing economies, and maximise the benefits to the people of the area.

The results of all these studies will be published, and the Commission's public process will enable the public to respond and also to seek additional and supplementary information.

The end result should be the most reliable and realistic picture possible of the outlook for growth in "conventional" forms of economic activity in the north.

OBJECTIVE 2 (Economic Development)

No community north of 50° possesses a balanced, diversified economic base. A few are based on a single industry -- a mine, a mill, public services. Many, including almost all the reserves and native communities, lack any real economic base at all, and their people live on a combination of public assistance and trapping, hunting and fishing. There seems to be no immediate prospect of any radical change in this state of affairs, but the Commission will seek to identify ways in which the situation might be improved.

Basic information on resources and potential will be provided by the Commission studies of land and resources, economic prospects and subregional development. These may be complemented by a study of the native perception of the natural environment. Traditionally, the native people of the north have used the land and its resources very differently from non-native people, and their perception of and attitude towards them remain very different. The study that is being considered would attempt to depict this native view of the land in a way which would complement the earlier land and resources study, and jointly they should reveal the resources which could provide a basis for local economic activities: that is, what exists, how it is being used, and how it could be used.

Further Commission studies will be directed more specifically to identifying economic alternatives which might prove valuable in the north, giving particular attention to experience in other jurisdictions within and outside Canada. These will focus on the possible opportunities in, for example, small-scale, labour-intensive industry, intermediate technology, and specialised agriculture, and on what is required to realise such opportunities. Consideration will also be given to the possibilities for deriving more local benefit (for example, through employment) from existing and future conventional economic activities. The opportunities

which might be provided or improved for local enterprises through planned subregional development will also be examined.

Again, the public process will be used to expose the results of these studies to public scrutiny, to obtain comments, criticisms and suggestions, and to identify other possibilities.

OBJECTIVE 3 (Environmental Protection)

The Commission studies of the natural environment of the north will provide information on such matters as wildlife and vegetation, natural regions and ecosystems, areas and features of particular scientific importance or sensitivity, and native use of the land. The land and resources study will also identify those areas where new resource-based industries might occur, while the economic prospects study will give some indication of the likelihood and possible timing of such activity. Tourism and recreational development prospects will be included. This will provide, at least in a gross and general way, information about the location and nature of potential conflicts between economic activity, the natural environment, and native life and activities, and will thus shed light on the specific problems to which environmental protection and perhaps other measures should be addressed.

As part of its program of studies, the Commission is keeping under constant review the progress and experience of major projects currently being undertaken in the north, notably but not exclusively the Onakawana lignite/power project and the Ministry of Natural Resources' West Patricia Land Use Plan; this will provide further information on environmental protection problems and needs.

The next step is to review current Ontario environmental protection legislation and machinery in the light of what has been learned. Unfortunately, it seems unlikely that any project in the north will go through a complete environmental assessment process during the life of the Commission, but experience in other parts of the province can be examined. Also, the approaches and principles of Ontario legislation can be examined critically in relation to the law and practice in other jurisdictions. From this, recommendations for changes can be made if warranted. Before such recommendations are formulated, however, the public process will again allow public scrutiny of and comment on the information gained by the Commission.

OBJECTIVE 4 (Northern Goals)

This objective requires a different kind of work program from the others, concerned less with seeking information and developing recommendations than with continuous dialogue and collaboration between the Commission and the people of the north. This process is intended to encourage and assist northerners to debate and determine the long-term goals towards which they would wish to see government policy directed, and also to assist in devising ways of providing for greater public input into policy formulation and execution.

The first step in this process is to abstract from the submissions made to the Commission the goals which are expressed in them, or which seem to be implied. The next step is to use every possible forum to try to have these goals discussed, accepted, rejected, modified or extended. As this process continues, the Commission studies and hearings will contribute to it. If feasible, the Commission will contribute further by developing alternative scenarios for the direction of future change in the north. Comparison and discussion of such scenarios should assist in the process of goal definition, clarification and refinement.

It should be stressed, however, that the objective is not so much to create a consensus on a well-defined set of specific goals, though that is an outcome that might be hoped for, as to provide a catalyst for the continuing debate out of which such a consensus may eventually emerge.

OBJECTIVE 5 (Decision-making)

The key to the actual course of future change in the north lies in the processes by which the decisions are made which bring about or influence particular changes, and in the objectives, assumptions, legislation, policies and administrative structures which underlie those processes. It will, therefore, be necessary for the Commission to seek clarification of these matters, at both the federal and provincial levels.

The Commission will try to identify the goals which government is attempting to reach in the north, using both formal policy statements and inference from actual legislation and programs. It will then try to ascertain whether these goals are compatible with each other and consistent with the goals of the northern people, and whether actual government activities conform to them. Commission studies will also be directed specifically at the government decision-making process, focusing on such matters as clarity and accessibility, jurisdictional

overlap, and the extent of public participation and local control. The approach to this is not yet determined, but it will probably entail concentration on a case study either of a particular locality or of a particular area of activity, such as economic development. Finally, the continuing review of major projects should help to throw light on the government decision-making process.

As before, the public process will complement Commission studies in providing information, comments and suggestions. In this case they are likely to be of particular value in contributing the actual experience of people and communities to the processes of government decision-making.

APPENDIX: The Order-in-Council

APPENDIX



O.C. 1900/77

Copy of an Order-in-Council approved by His Honour the Administrator of the Government of the Province of Ontario, dated the 13th day of July, A.D. 1977.

The Committee of Council have had under consideration the report of the Honourable the Minister of the Environment, wherein he states that,

Recognizing that major enterprises and related technologies in that part of Ontario that is north or generally north of the 50th parallel of north latitude for the use of natural resources could have significant beneficial and adverse effects on the environment, as defined in Schedule A, for the people of Ontario and in particular those people of Ontario who live north of the 50th parallel.

Recognizing further that any such effects on the environment are hereby declared to be a matter of public concern,

Recognizing further that the purpose of The Environmental Assessment Act, 1975, is the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment,

The Honourable the Minister of the Environment recommends that the Honourable Mr. Justice Patrick Hartt, a Justice of the Supreme Court of Ontario, be appointed a commission pursuant to the provisions of The Public Inquiries Act, 1971, effective the 13th day of July, 1977:

1. to inquire into any beneficial and adverse effects on the environment as defined in Schedule A, for the people of Ontario of any public or private enterprise, which, in the opinion of the commission, is a major enterprise north or generally north of the 50th parallel of north latitude, such as those related to harvesting,
supply and use of timber resources, mining, milling, smelting, oil and gas extraction, hydro-electric development, nuclear power development, water use, tourism and recreation, transportation, communications or pipelines,

2. to inquire into methods that should be used in the future to assess, evaluate and make decisions concerning the effects on the environment of such major enterprises;
3. to investigate the feasibility and desirability of alternative undertakings north or generally north of the 50th parallel of north latitude, for the benefit of the environment as defined in Schedule A;
4. to report and make such recommendations to the Minister of the Environment from time to time and as expeditiously as possible with respect to the subject matter of the inquiry as the commission deems necessary and desirable to carry out the purpose of The Environmental Assessment Act, 1975.

The Honourable the Minister of the Environment further recommends that

5. all the ministries, boards, agencies and committees of the Government of Ontario be directed to assist the commission to the fullest extent,
6. the commission be authorized to engage such counsel, research and other staff and technical advisers as it deems proper for the purpose of carrying out the commission at rates of remuneration and reimbursement to be approved by the Management Board of Cabinet;
7. the commission be authorized to distribute funds to such persons as in its discretion, having regard to the criteria in Schedule B, it deems advisable for the purpose of ensuring effective participation by the public in the inquiry.

The Committee of Council concur in the recommendation of the Honourable the Minister of the Environment and advise that the same be acted on.

Certified,

A handwritten signature in dark ink, appearing to read 'M. Lewis', is written over the printed name and title of the Deputy Clerk, Executive Council.

Deputy Clerk, Executive Council.

SCHEDULE A

"Environment" means,

- (i) air, land or water,
- (ii) plant and animal life, including man,
- (iii) the social, economic and cultural conditions that influence the life of man or a community,

- (iv) any building, structure, machine or other device or thing made by man,
- (v) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of man,
- or
- (vi) any part or combination of the foregoing and the interrelationships between any two or more of them,

in or of Ontario.

SCHEDULE B

CRITERIA FOR FUNDING OR PARTICIPATION IN INQUIRY

These criteria are intended to assist the commission in distributing the available funds in the fairest possible way so as to ensure effective public participation in the inquiry.

1. Representation of Wide Range of Interests

The parties assisted should be representative of the various interests which are directly or indirectly affected by the matters subject to the inquiry. It may not be feasible or practicable to fund representatives of all or any groups to the extent they feel necessary or desirable.

2. Avoidance of Duplication

Consideration may be given to encouraging the coalescence of individuals or groups with similar interests. An incentive could be provided to groups or individuals who are willing to work together and combine their presentations for the inquiry.

3. Representation of Various Geographic Areas

Funding may be allocated to representative of concerned groups or individuals who do not live or work immediately adjacent to the proposed development but who have substantial and direct interest in the subject-matter of the inquiry.

4. Allocation of Limited Funds

Within the context of the above criteria, in determining which applications for funding should be accepted, the commission may give consideration to the following specific guidelines:

- the applicant for funding should be one who the commission is satisfied, has a direct and substantial interest in the subject-matter of the inquiry,

- it should be clear to the commission that separate and adequate representation of that interest will make a necessary and substantial contribution to the hearing,
- those seeking assistance should have an established record of concern for, and should have demonstrated their own commitment to, the interests they seek to represent,
- it should be shown to the satisfaction of the commission that those seeking assistance do not have sufficient financial resources to enable them to represent adequately that interest in the hearing under consideration, and will require the assistance to enable them to do so,
- those seeking assistance should have a clear proposal as to the use they intend to make of the funds, and should be willing to make a commitment to account for the funds.

5. Determination of Specific Requirements

In determining whether to provide assistance and the amount of assistance to provide, the commission may consider:

- the length of time required for preparation of the presentation,
- non-monetary subsidies or other monetary inputs available to the individual or group applying for assistance,
- the number of paid employees who will be participating in the preparation of the presentation,
- the number of people represented by the group.

